IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3860 OF 2006

Himanshu @ Hemant Rajendra
Bhatt .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Subhash Jha i/b. Law Global for applicant
Ms.Rajendra Gadhavi, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 20th October 2006.

P.C.

. Applicant is accused in Sessions Case No.468 of 2005.

2. Mr.Jha has fairly pointed out that the applicant as also his Advocate remained absent on 28th June 2006, 3rd September 2006 and 3rd October 2006 and that is how the non bailable warrant has been issued.

3. Applicant apprehends arrest and that is how the present application under section 438 of Cr.P.C. has been filed.

4. Mr.Jha submits that all that the applicant is requesting is till he appears before the trial court and prays for cancellation of the non bailable warrant, he should not be arrested.

5. I was not inclined to consider this request coming as it is from an accused who has not bothered to remain present on 3 dates, admittedly. Even his Advocate has not been attending the Court. In such circumstances, it was not expected that the Additional Sessions

Judge would remain a silent spectator. He has performed his duty in ensuring presence of the accused at the trial. Such orders and directions, essentially, are to secure the attendance and to see that the proceedings are not delayed. They should not be interfered with by this Court.

6. However, in the light of the undertaking given by Mr.Jha now that the applicant would remain present on the date and time stipulated by this Court before learned Sessions Judge and purely as a last indulgence without creating a precedent, the following order is passed.

7. Applicant to appear before the trial Judge on 30th October 2006. Learned Additional Sessions Judge, thereafter to consider applicant’s request for cancellation of non bailable warrant, more so, in the light of further assurance of Mr.Jha that both applicant

as also his Advocate would remain present before the trial court unless otherwise exempted.

8. In the light of the above undertaking and assurance of appearance on 30th October 2006 at 11.00 a.m. before the trial court, applicant not to be arrested till then in pursuance of the non bailable warrant. Application disposed of.

(S.C.Dharmadhikari, J)